

COMMISSION ON COMMON OWNERSHIP COMMUNITIES  
Minutes of the Monthly Meeting  
1401 Rockville Pike, 5<sup>th</sup> Floor, Rockville, MD 20850  
Wednesday, February 6, 2020

The monthly meeting of the Commission on Common Ownership Communities was called to order at 7:03pm by Chairman Mark Fine.

**Commissioners present:** [10] ETHIER, FINE, GARDNER, GELFOUND, GIZA, MALAMUD, MYO KHIN, SMITH, STEINBACH, VINEY

**Commissioners absent:** PERPER & YOUNG

**Staff present:** Tim Goetzinger, DHCA Director of Finance; Walter Wilson, Associate County Attorney; Ife Fabayo, Staff.

**Guests:** Dr. Rand Fishbein [former Commissioner], Jo Ellen Bilanin, Ginger Naglee, Linda Moore, Susanna Barber, Kathy Franke, Barbara Elesh.

1. **Approval of Minutes:** Commissioner Smith moved to approve the minutes of the January 8, 2020 monthly meeting as amended, with Commissioner Malamud seconded. The motion was approved by majority vote, Commissioner Gelfound abstained.
2. **Community Forum:** Questions from guests included: Can financial reports be archived online? Yes, but they should be password protected. How can a member get minutes of committee meetings? If the committee is not forthcoming, ask the board. Can the board reject volunteers for committees? Yes.
3. **Submission of disputes for Commission consideration:**

**Jurisdiction - Default cases:**  
None

**Jurisdiction - Contested cases:**  
 #2019-065, Nerlinger v. Homeland Village Community Association – Commissioner Smith moved to accept jurisdiction and refer the complaint to a hearing panel. After discussion, the motion was approved by majority vote, Commissioner Gelfound opposed. Commissioner Ethier moved to have staff instruct parties that no future elections (due in February or March) may be held until the dispute is resolved, Commissioner Gelfound seconded. After discussion, the motion was approved by unanimous consent.  
 #2020-009, Berman v. Kennebec Mews Condominium – Commissioner Malamud moved to decline jurisdiction, Commissioner Smith seconded. The motion was approved by majority vote, Commissioner Fine abstained.  
 #2020-024, Adeolu v. Regents Square COA  
 Commissioner Gelfound moved to decline jurisdiction, Commissioner Smith seconded. The motion was approved by majority vote, Commissioner Gardner abstained.

4. **Decisions & Orders Issued:**
  - #2019-063, Snowden v. Olney Towne Association
  - #2020-028, Boveja v. West Spring Condominium
5. **Decisions & Orders on Appeal in Circuit Court for Montgomery County, MD:**
  - #2018-040, Dillin et al, v. The Willoughby of Chevy Chase and
  - #2018-061, Nadri v. The Willoughby of Chevy Chase (consolidated) - Oral arguments made in January, waiting for decision.
  - #2019-019, Weinrich v. Tanterra HOA – Petitioners brief filed, Respondent & County to respond.
  - #2019-070, Washington v. Silverton Condominium – Oral arguments in May.
  - #2019-057, Torres v. Top of the Park Condominium Association – Oral arguments in March.
6. **County Attorney's report:** Decision & Order(s) under review by Mr. Wilson – None
7. **DHCA report:** Director Goetzinger presented the statistical report for January 2020 and addressed commissioner's questions. Lexus Nexus subscriptions to be made available to attorneys and panel chairs on hearing panels.
8. **Chairman's Report:**
  - Commissioner Fine presented a Resolution [attached] written after consultation with the Office of the Maryland Attorney General, clarifying the Commission's definition of "meeting". Commissioner Smith moved to accept the resolution, Commissioner Malamud seconded. The motion was approved by majority vote, Commissioner Viney abstained. **The DHCA Public Information Officer will send the Resolution to all CCOC subscribers to MOCO's E-Subscribe.**
  - #2020-014, Pierce et ux v. Sunnymeade Homeowners Assoc. – Commissioner Viney moved to refer the complaint to OZAH for a hearing if parties cannot come to an agreement in mediation, Commissioner Smith seconded. The motion was approved by majority vote, Commissioner Gardner abstained.
  - Presentation to the City Council of the City of Gaithersburg will be held on March 9<sup>th</sup> [evening].
  - Online training – working on system edits.
  - Commissioners made brief presentations regarding their involvement in assisting associations who are not in good legal standing. Their issues include reviving legal filings, not holding elections or election misconduct, improper meetings, etc., and generally not following the law or best practices. The seven associations in question are North Farm HOA, River Falls Condo, West Spring Condo, Kenwood Place, Wintergate, Bonifant Park, and Mutual 22. Discussion followed about the extent of 'technical assistance' or 'education' the commission has the authority to offer under Chapter 10B. **The Process & Procedures Committee will work on a "not to exceed" policy.**
9. **Committee reports:**
  - a. Education Committee [Members: Commissioners Fine, Gelfound, Giza, MyoKhin, Perper, & Steinbach] --- No report.
  - b. Legislative Committee [Members: Commissioners Fine, Gardner (Chair), Malamud, MyoKhin, Viney, & Young] --- Commissioner Gardner reviewed the Assembly's Bills presented for the Commission's recommendations. Next meeting in mid-February will be to discuss amendments to 10B-17 "Voting".

- c. IT/Process & Procedures Committee [Members: Commissioners Ethier (Chair), Fine, Giza, & Malamud] --- No report.
  - d. Interview Committee [Members: Commissioners Phil Giza (Chair) & Staci Gelfound, Malamud]  
--- Received suggested questions from 9 commissioners.
- 11. **Old business:** None
  - 12. **New business:** None
  - 13. **Meeting adjourned** at 9:24pm.

**Next meeting: Wednesday, MARCH 4, 2020 at 7:00pm**

Submitted by Kathy Viney,  
Recording Secretary

**---Attachment---**

## Resolution

**WHEREAS**, the Montgomery County Commission on Common Ownership Communities, adopts the following policy with regards to its position on meetings of boards of directors and Committees of common ownership communities within Montgomery County, Maryland; and

**WHEREAS**, Maryland law generally requires that all community association meetings be open to community association members, specifically enumerating the instances in which a meeting may be closed, but does not precisely define what constitutes a meeting; and

**WHEREAS**, having reviewed relevant statutes and case law in other states and the District of Columbia, consulted the Maryland Open Meetings Act Manual prepared by the Office of the Maryland Attorney General, and studied the language of the Uniform Common Interest Ownership Act published by the Uniform Law Commission, the Commission finds it necessary to adopt a standard definition of "meeting" to guide future Commission hearing panels charged with adjudicating disputes involving a community association's alleged failure to properly conduct a meeting;

**THEREFORE, BE IT RESOLVED** that the following guidance as to what constitutes a community association meeting is hereby adopted by the Commission on Common Ownership Communities:

(a) A meeting is a gathering, regardless of description, of a quorum of the board of directors or a board-authorized committee of a common ownership community convened for the purpose of considering or transacting association business.

(b) A member of a common ownership community board of directors or a board-authorized committee may not use a gathering, regardless of description— e.g., work session, social gathering—in which a quorum is present to evade open meeting requirements.

Approved, and effective, this 5<sup>th</sup> day of February, 2020, by the  
Montgomery County Commission on Common Ownership Communities.



Mark S. Fine, Chairman